THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 19046 of 1997

Dated: 15.03.2007

Between:

B.P. Prabhakar

... Petitioner

AND

The Labour Court-III, Hyderabad,
Rep., by its Presiding Officer & another.

... Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 19046 of 1997

ORDER:-

This writ petition is filed questioning the award of the Labour Court-III, 1st respondent herein, passed in I.D.No.768 of 1993 dated 03.04.1997, whereby it declined to grant relief to the petitioner.

The petitioner, who was appointed as Typist in June 1995 on daily wage basis in the 2nd respondent office, approached the 1st respondent by way of I.D.No.768 of 1993 dated 03.04.1997. Her grievance before the 1st respondent was that her services were terminated without any notice or payment of retrenchment compensation as envisaged under Section 25-F of the Industrial Disputes Act, 1947 (for short "the Act") though she worked from 17.06.1985 to 22.01.1987 and had completed 240 days of continuous service.

The petitioner examined herself as WW.1 and the Management examined one B. Ravinder Babu as MW.1.

The 1st respondent disbelieved the stand taken by the 2nd respondent that the petitioner did not put in service of 240 days in a calendar year. However, the 1st respondent – Labour Court held that the petitioner, who approached it five years after her purported termination, failed to produce any material to show that her services were, in fact, terminated, in the wake of the plea taken by the 2nd

respondent - Management that the petitioner's services were never terminated, but she on her own volition discontinued without reporting to duty.

I have heard Smt. R. Dushyantala, learned counsel appearing for Sri V. Vishwanatham for the petitioner.

Learned counsel made strenuous efforts to convince this Court that the 1st respondent committed an error in rejecting the petitioner's case for reinstatement. When the learned counsel is asked whether any material such as notice given by the petitioner to the 2nd respondent consequent on her oral termination was filed before the Labour Court, she replied in the negative.

In the absence of any material in support of the petitioner's contention that her discontinuation was in the nature of termination, the 1st respondent, Labour Court, in my considered view, is justified in finding on the basis of the oral evidence that the petitioner's services were not terminated and that it was a case of her own discontinuance. As the finding is based on appreciation of evidence, this Court would not embark upon re-appreciating the evidence available on record while exercising the power of judicial review under Article 226 of the Constitution of India.

For the aforementioned reasons, the writ petition fails and is accordingly dismissed.

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C.V. NAGARJUNA REDDY, J

Date: 15.03.2007
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